defects of the premises. *Lunt* v. *Post Publishing Co.*, 48 Colo. 316, 110 Pac. 203; *Beehler* v. *Daniels*, 18 R. I. 563, 29 Atl. 6. Since the fireman's paramount duty to the public commands him to enter and the occupier may not prohibit him, the license is said to be by operation of law. See *Woodruff* v. *Bowen*, 136 Ind. 431, 34 N. E. 1113. In two states public officers have been given rights of business guests on the theory of implied invitation, though permission is immaterial to the right to enter. *Learoyd* v. *Godfrey*, 138 Mass. 315; *Anderson & Nelson Distilling Co.* v. *Hair*, 103 Ky. 196, 44 S. W. 658. In the principal case the same result is reached by placing firemen in a special category and investing them with the rights of invitees. The soundness of this result is doubtful, for in effect it compels occupiers to keep premises safe for invitees at all times on the chance that public officers will be required to enter. Since firemen are injured in the public service, they should be compensated by the public, as for example, by a pension fund.

EASEMENTS — EXTINGUISHMENT OF EASEMENTS — APPURTENANT EASEMENT GIVING ACCESS TO HIGHWAY NOT EXTINGUISHED BY ACQUISITION OF A MEANS OF EGRESS TO HIGHWAY. — A grantor sold to the plaintiff a lot from which the only access to the public road was a private way over a lot which the grantor retained. The grantor subsequently sold the latter lot to the defendant. Later, the plaintiff acquired land giving him another outlet to the highway. The defendant thereon obstructed the private way and the plaintiff sued to have an easement declared in his favor. *Held*, that the plaintiff had an easement. *Wilson* v. *Glascock*, 126 N. E. 231 (Ind.).

A way of necessity ends with the necessity. *Bauman* v. *Wagner*, 130 N. Y. Supp. 1016. See *Hart* v. *Deering*, 222 Mass. 407, 111 N. E. 37. On the other hand, it is generally held that an easement by express grant does not end with the necessity. *Atlania Mills* v. *Mason*, 120 Mass. 244. An easement acquired because it is appurtenant, being open, apparent, and continuous, is based on the implied intent of the grantor. As the easement is based on a fiction, its limits should be narrowly construed. The weight of authority in America holds that such easement must be reasonably necessary to the beneficial enjoyment of the grantee's estate. *Johnson* v. *Knapp*, 146 Mass. 70, 15 N. E. 134; *Spencer* v. *Kilmer*, 151 N. Y. 390, 47 N. E. 1111. See 1 TIFFANY, REAL PROPERTY, § 317. The principal case suggests that the later acquisition of other modes of egress will never terminate the easement. *Mosher* v. *Hibbs*, 24 Ohio Cir. Ct. Rep. 375, *accord*. This goes too far. Limiting the easement narrowly, it should be held that it ceases when its reason, which is reasonable necessity, ceases.

EVIDENCE — DECLARATION CONCERNING INTENTION, FEELINGS, OR BODILY CONDITION — STATEMENT TO ONE NOT A PHYSICIAN. — The plaintiff sought to prove his injuries received while a passenger in the defendant's automobile. His statements to his wife and mother, made during his resultant incapacitation, with regard to existing pain, were admitted in evidence. *Held*, that the testimony was properly admitted. *Williams* v. *A. R. G. Bus Co.*, 190 Pac. 1036 (Cal.).

Under an exception to the Hearsay Rule, a third party overhearing groans or cries uttered by one in pain, may testify to such "verbal acts." *Hagenlocher* v. *Brooklyn R. R.*, 99 N. Y. 136, 1 N. E. 536. See *Wilkins* v. *Mayor of Wilmington*, 2 Marv. (Del.) 132, 133, 42 Atl. 418, 419. In most jurisdictions spontaneous exclamations of existing suffering, to whomsoever made, are also admissible. *Baltimore & Ohio Ry. Co.* v. *Rambo*, 59 Fed. 75; *Mississippi Central Ry. Co.* v. *Turnage*, 95 Miss. 854, 49 So. 840; *Cashin* v. *N. Y., N. H., & H. R. R. Co.*, 185 Mass. 543, 70 N. E. 930. If made to a physician, they have greater weight. See *Northern Pacific Ry. Co.* v. *Urlin*, 158 U. S. 271, 275;

see 1 GREENLEAF, EVIDENCE, 16 ed., § 162 b. A few states, notably New York, admit these more articulate expressions of present pain only if made to a physician during consultation. *Kennedy* v. *Rochester City & B. R. R. Co.*, 130 N. Y. 654, 29 N. E. 141; *Lake St. Elevated Ry. Co.* v. *Shaw*, 203 Ill. 39, 67 N. E. 374. And the consultation must intend medical treatment. *Davidson* v. *Cornell*, 132 N. Y. 228, 30 N. E. 573. This New York limitation, which developed only after the Code gave parties the right themselves to testify regarding their suffering, is condemned as illogical. See 3 WIGMORE, EVIDENCE, § 1719. A more flexible rule is required, yet one not without some guarantees of trustworthiness. Kansas admits statements of present pain only when validated by other evidence concerning the circumstances under which they were uttered. *St. Louis and Santa Fé R. R. Co.* v. *Chaney*, 77 Kan. 276, 94 Pac. 126. Some such safeguard is essential. As the meagre report of the principal case affords no indication that any guarantee was exacted before admitting the evidence, the decision is possibly wrong.

GIFTS — GIFTS *INTER VIVOS* — OWNERSHIP OF WEDDING GIFTS. — The plaintiff received money as a wedding gift from her mother to purchase furniture. After the furniture had been bought and used in the home, plaintiff's husband claimed an interest in it as joint owner. *Held*, that he had no such interest. *Wainess* v. *Jenkins*, 180 N. Y. Supp. 627.

Before the Married Woman's Property Acts, the property in gifts to the wife usually vested in the husband by reason of his marital rights. *Tllexan* v. *Wilson*, 43 Me. 186. And it was, therefore, not always necessary to determine the precise donee. Under modern statutes, with the possibility of separate ownership in the wife, it is important to distinguish the real donee of wedding gifts. As in the case of other gifts, the problem is to discover the intention of the donor, which, in the absence of express words, is to be inferred from the nature of the article, the relation between the donor and donee, and like circumstances. This reasoning, with the finding of title in the wife, has been used in cases of a devise of a separate estate. See *Miller* v. *Miller's Adm'r*, 92 Va. 510, 512, 23 S. E. 891, 892; *Duke's Heirs* v. *Duke's Devisees*, 81 Ky. 308, 311. And a similar result has been reached, as in the principal case, in gifts of personalty. *In re Grant*, 2 Story (U. S. C. C.), 312; *Graham* v. *Londonderry*, 3 Atk. 393; *Lyon* v. *Lyon*, 24 Ky. Law Rep. 2100, 72 S. W. 1102; *Ilgenfritz* v. *Ilgenfritz*, 49 Mo. App. 127.

HOMICIDE — INTENT — EFFECT OF INTOXICATION ON *MENS REA*. — Respondent ravished a girl of thirteen. To stop her screams he placed his hand over her mouth and pressed his thumb on her throat so that she died from suffocation. On an indictment for murder respondent pleaded drunkenness. The trial court directed the jury that this defense could prevail only if the accused, because of his drunkenness did not know what he was doing or that it was wrong. The jury found a verdict of murder. The Court of Criminal Appeal held that there had been a misdirection, resting on *Rex* v. *Meade*, [1909] 1 K. B. 895. *Held*, that the conviction be restored. *Director of Pub. Prosec.* v. *Beard*, [1920] A. C. 479.

For a discussion of the principles involved in this case, see NOTES, p. 78, *supra*.

HUSBAND AND WIFE. — PRESUMPTION OF COERCION — EFFECT OF MARRIED WOMAN'S ACT. — Defendant, a married woman, was convicted of selling intoxicating liquors without a license. The trial court had refused to instruct the jury that there was a presumption that a married woman, who committed a crime in the presence of her husband, acted under his coercion, and should not be found guilty unless this presumption was overcome by the evidence.